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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/302,154	04/29/1999	EDWIN PETER DAWSON PEDNAULT	Y0999-214	6531

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EXAMINER

KAPADIA, MILAN S

ART UNIT PAPER NUMBER

3626

DATE MAILED: 10/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/302,154

Applicant(s)

PEDNAULT, EDWIN PETER  
DAWSON

Examiner

Milan S Kapadia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

*Notice to Applicant*

1. This communication is in response to the amendment filed 23 July 2002. Claims 1-5 are pending. Claims 1-4 have been amended. Claim 5 is newly added.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apte et al (5,890,129) in view of Lash (2001/0020229).

(A) Claim 1 has been amended by removing the limitation "comprising a test whose outcome is not equivalent to a comparison between, on the one hand, the number of training records of at least one species of training records belonging to the segment and, on the other hand, a numerical quantity that may depend on the combination of species of training records being considered but that is otherwise constant for all generated segments that are evaluated." It is respectfully submitted, that the remaining

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limitations repeat the limitations of claim 1 in the previous Office Action (paper number 2) and are therefore rejected for the same reasons given in previous Office Action (paper number 2, section 5A, pages 3-6) and incorporated herein. The additional amendments to claim 1 (i.e., replacing "the step of" with "said" and removing the term "steps" ) appear to be grammatical or typographical in nature, but do not otherwise appear to change the scope of the claim as originally presented and in the manner addressed by the examiner in the previous Office Action (paper number 2).

(B) The amendments to claims 2-4 (i.e., replacing "the step of" with "said" and removing the term "steps" ) appear to be grammatical or typographical in nature, but do not otherwise appear to change the scope of the claim as originally presented and in the manner addressed by the examiner in the previous Office Action (paper number 2).

(C) As per claim 5, Apte teaches performing a test whose outcome is not equivalent to a comparison between, on the one hand, the number of training records of at least one species of training records belonging to the segment and, on the other hand, a numerical quantity that may depend on the combination of species of training records being considered but that is otherwise constant for all generated segments that are evaluated (Apte; col. 4, lines 28-40; the examiner interprets the "what-if scenario analysis" as a from of "test whose outcome is not equivalent to a comparison between, on the one hand, the number of training records of at least one species of training records belonging to the segment and, on the other hand, a numerical quantity that may

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depend on the combination of species of training records being considered but that is otherwise constant for all generated segments that are evaluated.”)

### ***Response to Arguments***

2. Applicant's arguments filed 7/23/02 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed 7/23/02.

(A) At page 7 of the 7/23/02 response, Applicant traverses the “Examiner’s characterization of the preamble phrase can be overcome by merely adding conventional storage devices” in reference to claim 1. In response, the examiner respectfully notes that the system of Apte teaches that the system is run on a client-server system and that is processed by software running on the systems (Apte; col. 2, line 64-col. 3, line 34). It is respectfully submitted that the knowledge of one skilled in the art, such as the teaching of Lash, was combined with the teachings of Apte merely to show that in the art “a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine” is known in systems that run software (See also Microsoft computer dictionary 5<sup>th</sup> edition, page 499, attached at the end of the office action).

(B) At page 7 of the 7/23/02 response, Applicant argues the “Examiner is not justified

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to assert the existence of totally-automated method to identify patients at risk teaches one of ordinary skill in the art how to modify the technique in the Apte reference to eliminate the human interaction required to complete the modeling techniques described herein" in reference to claim 1. In response, the examiner respectfully notes as shown above, the teachings of Lash were not incorporated to replace the "human interaction required" by Apte but merely to teach that "a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine" is known in the art. Apte teaches a system that uses software to perform the functions of the system as shown above. Moreover merely using a computer to automate a known process does not by itself impart nonobviousness to the invention. See *Dann v. Johnston*, 425 U.S. 219, 227-30, 189 USPQ 257, 261 (1976); *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

### ***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milan S Kapadia whose telephone number is 703-305-3887. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

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October 21, 2002

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

**Storage area network** *n.* A storage area network, or SAN, includes components such as hubs and routers that are also used in local area networks (LANs), but it differs in being something of a "subnetwork" dedicated to providing a high-speed connection between storage elements and servers. Most SANs rely on fiber-channel connections that deliver speeds up to 1000 Mbps and can support up to 128 devices. SANs are implemented to provide the scalability, speed, and manageability required in environments that demand high data availability. *Acronym:* SAN. *Also called:* system area network.

**Storage device** *n.* An apparatus for recording computer data in permanent or semipermanent form. When a distinction is made between primary (main) storage devices and secondary (auxiliary) storage devices, the former refers to random access memory (RAM) and the latter refers to disk drives and other external devices.

**Storage location** *n.* The position at which a particular item can be found—either an addressed location or a uniquely identified location on a disk, tape, or similar medium.

**Storage media** *n.* The various types of physical material in which data bits are written and stored, such as floppy disks, hard disks, tape, and optical discs.

**Storage tube** *n.* *See* direct view storage tube.

**Store-and-forward** *n.* A method of delivering transmissions in which messages are held temporarily by an intermediary before being sent on to their destination. Store and forward is used by some switches in delivering packets to their destinations. *Compare* cut-through switch.

**Stored procedure** *n.* A precompiled collection of SQL statements and optional control-of-flow statements stored with a name and processed as a unit. They are stored in a SQL database and can be run with one call from an application.

**Stored program concept** *n.* A system architecture concept, credited largely to the mathematician John von Neumann, in which both programs and data are in direct access storage (random access memory, or RAM), thereby requiring code and data to be treated interchangeably. *See* von Neumann architecture.

**Storefront** *n.* *See* virtual storefront.

**Storm** *n.* On a network, a sudden, excessive burst of traffic. Storms are often responsible for network outages.

**STP** *n.* Acronym for shielded twisted pair. A cable consisting of one or more twisted pairs of wires and a sheath

of foil and copper braid. The twists protect the pairs from interference by each other, and the shielding protects the pairs from interference from outside. Therefore, STP cable can be used for high-speed transmission over long distances. *See also* twisted-pair cable. *Compare* UTP.

**straight-line code** *n.* Program code that follows a direct sequence of statements rather than skipping ahead or jumping back via transfer statements such as GOTO and JUMP. *See also* GOTO statement, jump instruction. *Compare* spaghetti code.

**stream**<sup>1</sup> *n.* Any data transmission, such as the movement of a file between disk and memory, that occurs in a continuous flow. Manipulating a data stream is a programming task. Consumers, however, are likely to encounter references to streams and streaming in connection to the Internet, which has increased reliance on stream techniques to enable users (even those with slower equipment) to access large multimedia files—especially those containing audio and video components—and to display or play them before all the data has been transferred.

**stream**<sup>2</sup> *vb.* To transfer data continuously, beginning to end, in a steady flow. Many aspects of computing rely on the ability to stream data: file input and output, for example, and communications. If necessary, an application receiving a stream must be able to save the information to a buffer in order to prevent loss of data. On the Internet, streaming enables users to begin accessing and using a file before it has been transmitted in its entirety.

**stream cipher** *n.* A method for encrypting a data sequence of unlimited length using a key of fixed length. *See also* key (definition 3). *Compare* block cipher.

**streaming** *n.* **1.** On the Internet, the process of delivering information, especially multimedia sound or video, in a steady flow that the recipient can access as the file is being transmitted. **2.** In magnetic tape storage devices, a low-cost technique to control the motion of the tape by removing tape buffers. Although streaming tape compromises start/stop performance, it achieves highly reliable storage and retrieval of data, and is useful when a steady supply of data is required by a particular application or computer.

**streaming buffer** *n.* A small sound buffer that can play lengthy sounds because the application dynamically loads audio data into the buffer as it plays. For example, an application could use a buffer that can hold 3 seconds of audio data to play a 2-minute sound. A streaming buffer requires much less memory than a static buffer. *See also* static buffer.

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